

SIGNED
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. FIFRA-08-2004-0012

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)	
Mouse Out, LLC)	
308 East Denver Street)	CONSENT AGREEMENT
Holyoke, Colorado 80734)	
)	
)	
Respondent.)	
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Complainant, United States Environmental Protection Agency, Region 8 ("EPA"), and Mouse Out, LLC ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. These matters are subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding these matters, as provided for in 40 C.F.R. section 22.13(b).
2. The Respondent is located in Holyoke, Colorado.
3. The Complaint filed in this matter alleges that Respondent sold an unregistered pesticide, in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).
4. This Consent Agreement (hereafter the "Consent Agreement") applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, board members, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.

5. Respondent waives its right to a hearing on any issue of law or fact set forth in this Pleading.
6. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained in the Complaint filed in this matter. Respondent asserts that it is not liable in this matter.

II. TERMS OF SETTLEMENT

7. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the subject Complaint to TWO THOUSAND SIX HUNDRED DOLLARS (\$2,600.00).
8. Respondent consents to the issuance of a Final Order that incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph 9 below.
9. Respondent agrees to pay a penalty in the amount of TWO THOUSAND SIX HUNDRED DOLLARS (\$2,600.00).
10. The penalty is due thirty (30) days after issuance of the Final Order in this matter by the Regional Presiding Officer. For purposes of calculating timely payment, the term "*issuance*" shall mean the date the Final Order is signed by the Regional Presiding Officer. This payment shall be made by remitting a cashier's or certified check, payable to "Treasurer, United States of America," to:

U. S. EPA, Region 8
(Regional Hearing Clerk)
Mellon Bank
P. O. Box 360859M
Pittsburgh, PA 15251

The payment check shall reference the name and address of Respondent's facility and the EPA docket numbers of this action. A copy of the check shall be sent simultaneously to:

Tim Osag
Senior Enforcement Coordinator
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 500
Denver, Colorado 80202-2466

Payment of the settlement amount described in Paragraph 9 above in full shall constitute full satisfaction of the terms of this agreement and any Final Order

incorporating this agreement.

11. Respondent agrees and consents that if Respondent fails to pay the penalty amount within the time period specified above, the full penalty amount as set out in the complaint filed in this matter, or any unpaid balance thereof, shall become due and owing by the Respondent unless EPA in its sole discretion waives all or part of such acceleration. Furthermore, in the event timely payment is not made, consistent with Paragraph 10 above, interest on the penalty amount or any unpaid balance shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid by the due dates set forth in Paragraph 11 above.
12. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
13. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaints filed in these matters.
14. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this agreement and to execute and legally bind that party to this agreement.
15. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this agreement.
16. The parties may amend or modify this agreement only if such amendment or modification is made in writing and approved by the Regional Judicial Officer.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE,
AND ENVIRONMENTAL JUSTICE,

Complainant.

Date: 10/28/04

By: David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 10/28/04

By: SIGNED

Elisabeth Evans, Director
Technical Enforcement Program

Date: Oct. 27, 2004

By: SIGNED

Dana J. Stotsky
Senior Enforcement Attorney
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953

MOUSE OUT, LLC
Respondent

Date: 10/14/04

By: SIGNED

Mr. Dennis Weaver

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **MOUSE OUT, LLC., DOCKET NO.: FIFRA-08-2004-0012** was filed with the Regional Hearing Clerk on November 1, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Dana Stotsky, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on November 1, 2004, to:

Mr. Dennis Weaver
Mouse Out, LLC.
308 East Denver Street
Holyoke, CO 80734

November 1, 2004

SIGNED_____

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON November 1, 2004.**

